

**INSTRUCTIONS FOR THE 2004 HAWAII**  
**CHILD SUPPORT GUIDELINES**

**I. INTRODUCTION**

State law requires the Family Court, the Child Support Enforcement Agency and the Office of Child Support Hearings to follow these Guidelines in all cases involving child support unless there are “exceptional circumstances.”

These Guidelines provide assistance in calculating child support using the Child Support Guidelines Worksheet and the Income Table (Attachments A-1 and A-2). Please review the general provisions prior to completing your Child Support Guidelines Worksheet.

THERE MAY BE ADDITIONAL BENEFITS AVAILABLE TO YOU AND YOUR CHILDREN IN THE FORM OF INCOME TAX CREDITS, CHILD CARE CREDITS AND EDUCATIONAL TAX BENEFITS. WE RECOMMEND YOU CONTACT THE I.R.S. FOR THEIR PAMPHLETS ON THESE TOPICS OR TALK WITH YOUR TAX PREPARER FOR AN EXPLANATION OF THESE BENEFITS AND CREDITS.

**II. GENERAL PROVISIONS**

- A. **PARENT**, as used in these Guidelines means any person with a legal obligation of support to a dependent child(ren) and/or adult dependent child(ren).
- B. **NUMBER OF CHILDREN** means the number of children of the parties for whom child support is being calculated in this case or hearing.
- C. **ALL INFORMATION** presented to the Family Court, the Child Support Enforcement Agency or the Office of Child Support Hearings shall be based upon **MONTHLY AMOUNTS**. Where a parent receives weekly income, multiply the weekly amount by 52 and divide by 12 months to arrive at a correct monthly amount. Where a parent receives income twice a month (such as on the 1st and 15th of the month) multiply the semimonthly amount by 2 to arrive at a correct monthly amount. Where a party receives income every two weeks (such as every other Friday) multiply the biweekly amount by 26 pay periods per year and divide by 12 months to arrive at a correct monthly amount.
- D. **GROSS INCOME**, as used in these Guidelines, worksheets and income tables, includes income from all sources that are regular and consistent, including but not limited to:
  - 1. Employment salaries and wages, including tips, commissions, bonuses, profit sharing, deferred compensation, and severance pay;
  - 2. Income from overtime and second jobs that occur on a regular basis;
  - 3. Spousal Support;
  - 4. Investment and interest income (including dividends);
  - 5. Pension income;
  - 6. Trust or estate income;
  - 7. Annuities;
  - 8. Capital gains, unless nonrecurring;
  - 9. Social Security benefits received by the party;
  - 10. Veteran’s benefits received;

11. Military base and special pay and allowances received by the party including, but not limited to, basic allowance for housing (BAH), basic allowance for subsistence (BAS), hazardous duty pay, cost-of-living allowance (COLA), selective reenlistment bonus (SRB), retired/retainer pay, reserve pay, etc.;
12. National Guard and reserve drill pay;
13. Benefits received in place of earned income, including workers' compensation benefits, unemployment insurance benefits, strike pay and disability insurance benefits;
14. Monetary gifts, lottery and gambling winnings that are continuous;
15. Income from contractual agreements;
16. Income from self-employment, including rent, royalties and other benefits allocated to an individual for a business or undertaking in the form of a proprietorship, partnership, joint venture, close corporation, agency or independent contractor (see Paragraph E below);
17. Fringe benefits, including use of company car, free housing and reimbursed expenses which reduce personal living expenses; and
18. Other income.

**INCOME DOES NOT INCLUDE** any benefits received from a needs-based public assistance program, including but not limited to Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps, Section 8 Housing Allowances, General Assistance Grants, Pell Grants and benefits received from the Jobs Training Partnership Act, or the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

**ASSETS FOR PAYMENT OF SUPPORT** may be applied when a parent has inadequate income to meet his/her child support obligation. If the parent owns assets, he/she may be required to convert all or some portion of said assets to cash for payment of support.

- E. **SELF-EMPLOYED** individuals must report gross income minus ordinary and necessary business/operating expenses, including a reasonable amount for ordinary wear and tear of capital assets and minus one-half of self-employment taxes (refer to tax returns). The court or administrative hearings officer will determine what (if any) depreciation<sup>1</sup> may be subtracted.

The Income Table reduces gross income to net income by subtracting state and federal taxes for filing single claiming one exemption, Social Security (FICA) at 7.65%, and \$633 (after tax poverty income). The self-employed individual pays an additional self-employment tax which is nearly equal to the 7.65% FICA usually contributed by the employer. For self-employed individuals with income under \$10,150 per month, use the table for net income and then subtract ½ of the self-employment tax (from tax returns) which is not reflected in the income table.

For self-employed individuals earning more than \$10,150 per month, see page 10.

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<sup>1</sup>Depreciation and/or amortization allowed or allowable under the Internal Revenue Code of 1986 as amended will generally exceed a reasonable amount for ordinary wear and tear. Such adjustments should not be made for minor levels of depreciation or amortization. If any method other than straight line depreciation over the estimated useful life of a capital asset is used, then a suggested estimate of economic depreciation may be found in the Class Life Asset Depreciation Range System (ADR) generated by the Internal Revenue Service.

- F. **IMPUTED INCOME** may be used when a parent is not employed full-time or is employed below full earning capacity. The reasons for this limitation must be considered.

If a parent's income is limited in order to care for the child(ren) to whom the parties owe a joint legal responsibility, at least one of whom is younger than 3 years old, then no additional income will be imputed to that parent.

If a parent's income is limited for any other reason, the parent's income will be determined according to his or her income capacity in the local job market, considering both the reasonable needs of the child(ren) and the reasonable work aspirations of the parent.

If any custodial parent (with a child more than 3 years old) who is mentally and physically able to work, remains at home and does not work, no less than thirty (30) hours of weekly earning at the minimum wage may be imputed to that parent's income.

- G. **EXCEPTIONAL CIRCUMSTANCES** presented to the Court or Office of Child Support Hearings may warrant a departure from the Guidelines' computation. If you believe exceptional circumstances apply to your case, complete the Exceptional Circumstances Form (Attachment C) and attach it to your guideline worksheet. For a discussion of exceptional circumstances, see page 8.
- H. **MINIMUM CHILD SUPPORT** is \$50 per month per child.
- I. **CHILD SUPPORT WILL BE DIVIDED EQUALLY PER CHILD.** For example child support for 3 children is \$300 per month. The award of child support is \$100 per month per child for a total of \$300.

### III. **CHILD SUPPORT GUIDELINES WORKSHEET**

(Attachment A-1) and the Income Table (Attachment A-2)

The Income Table lists the Monthly Gross Income, Net Income, and Standard of Living Allowance (SOLA) Income. It also calculates 70% of Net Income.

**Gross Income** is the total of all incomes of the parent averaged on a monthly basis before taxes, Social Security and other deductions.

**Net Income** is calculated by deducting from gross income (a) 1998 state and federal taxes and 1998 FICA taxes for a single tax payer claiming one exemption, and (b) an additional \$633 for after tax poverty level self support. Net Income is **not** take-home pay.

**SOLA Income** is Gross Income minus \$743, based on the 1996 federal poverty guidelines for minimum food, clothing shelter and other essential needs. (FEDERAL REGISTER, Vol. 61, No 43, March 4, 1996).

### **TO CALCULATE CHILD SUPPORT USING THE GUIDELINES WORKSHEET:**

There are three sections on the Child Support Guidelines Worksheet used to determine the child(ren)'s needs.

### MINIMUM SUPPORT NEEDS:

Lines 1 through 4 of the Worksheet cover minimum monthly needs and costs over and above the cost of the parent to meet their own housing, food and other minimum essential needs. Minimum child support needs also include the cost of health insurance and child care expenses necessary for the parent(s) to work or attend vocational education or training which would increase the parent's earning abilities and therefore the child(ren)'s standard of living.

- Line 1: Enter the number of child(ren) and multiply by \$250 (poverty level needs in Hawai'i). (For example, 1 child = \$250; 2 children = \$500; 4 children = \$1000). Enter this amount in Line 1.
- Line 2: Enter the verified child care expenses actually paid and needed to allow the custodial parent(s) to work or attend vocational education or training.
- Line 3: Enter the cost for the child(ren)'s medical and dental insurance premiums. This is the amount that it costs the parent monthly for the child(ren)'s coverage over and above single person coverage or for other family members. For example, if the parent maintains medical insurance with a cost of \$150 for a single person and \$258 for a family plan to add the child(ren) to the parent's coverage, then enter \$108--the additional amount the parent pays for adding the child(ren) to that parent's coverage.
- Line 4: Add Lines 1, 2, and 3 to calculate the total minimum primary child support needs of the child(ren) per month.

### SOLA SUPPORT NEEDS:

Lines 5 through 9 cover the SOLA support needs of the child(ren). These Child Support Guidelines provide that parents are entitled to keep sufficient income for their most basic needs and to facilitate continued employment. Until the basic needs of the child(ren) are met, parents may not retain any more income than required to provide the bare necessities for the parent's own self-support. When income is sufficient to cover the basic needs of the parents and the child(ren), the child(ren) shall share in the parents' additional income so that the child(ren) can benefit from the parent's higher standard of living.

- Line 5: Line 5(A): Enter the Father's SOLA Income from the Income Table.  
Line 5(B): Enter the Mother's SOLA Income from the Income Table.  
Line 5(C): Add Lines 5(A) and 5(B) to obtain Line 5(C).  
For parents with gross incomes over \$10,150 per month, see pages 10 and 11 of these instructions to calculate SOLA income.
- Line 6: Enter the total amount of the child's primary support need from Line 4.
- Line 7: From Line 5(C) subtract Line 6(C) to calculate the parents' combined net SOLA Income. This shows the combined SOLA Income over and above what would be necessary for minimum support.
- Line 8: Multiply the number of child(ren) by 10%, up to a 30% maximum. For example, 1 child = 10%; 2 children = 20%; 3 children = 30%; 4 children = 30%

Line 9: Multiply the percentage on Line 8 by the parents' net SOLA on Line 7 to obtain the SOLA support need for the child(ren). Enter the result on Line 9.

**TOTAL SUPPORT NEED:**

Line 10: Add Line 4 and Line 9. The Total Child Support Need is the primary support and the SOLA support that would be available and used by the parties on behalf of the child(ren) had the parties remained in one household.

**EACH PARENT'S RESPONSIBILITY:**

Lines 11 through 17 calculate child support payable by each parent.

Line 11: Enter the Monthly Gross Income (before taxes, Social Security, or other deductions are made) for Father (Line 11(A)) and Mother (Line 11(B)).

A) **Include** income from all sources, including but not limited to employment salary or wages, pensions, net rental income, dividends, interest, and other net investment income, spousal support (alimony), etc., [see pages 1 and 2 of these instructions for detailed listing]. **DO NOT include public benefits based only on need, such as Welfare, TANF, General Assistance, SSI, Section 8 Housing and Food Stamps, WIC, benefits from the Job Training Partnership Act.**

B) **If one parent is paying the other parent spousal support (alimony), subtract** the amount of spousal support from the payor parent's income. **Add** the amount of spousal support to the receiving parent's income.

C) **DO NOT** subtract any other deduction from income even if it is mandatory (e.g., retirement, taxes, etc.).

Line 12: Enter the Monthly Net Income for both Father (Line 12(A)) and Mother (Line 12(B)) from the Income Table or for parents with incomes over \$10,150 per month, see pages 10 and 11 of these instructions. Add Lines 12(A) and 12(B) to compute Line 12(C)--Total Net Income available to both parents per month.

Line 13: Calculate the Percentage of Net Parental Income that each parent has. Divide each parent's Line 12 Net Income (Lines 12(A) and 12(B)) by the total Net Income Line 12(C). For example, for Father's Income Percentage divide Line 12(A) by Line 12(C). For Mother's Income Percentage divide Line 12(B) by Line 12(C). The resulting parental income percentage is the percent of the total Net Income earned by each party, (i.e., Father 35%, Mother 65%; Father 59%, Mother 41%).

Line 14: To obtain the Child Support obligation of each parent multiply Line 10 by Line 13(A) for Father and Line 10 by Line 13(B) for Mother.

Line 15: Enter the monthly child care expenses from Line 2 for the parent who pays these expenses on either Line 15(A) for Father or Line 15(B) for Mother. For example, if Mother pays \$200 child care to allow her to work or go to vocational training or education, then enter \$200 on Line 15(B).

Line 16: Enter the monthly health/dental insurance expenses from Line 3 on Line 16(A) or (B) for the

parent who pays these expenses. For example, if Father pays \$200 medical insurance to cover the child(ren) over and above cost to cover himself on a single policy, then enter \$200 on Line 16(A) in Father's column.

Line 17: For each parent, subtract Lines 15 and 16 from Line 14 to calculate the remaining Child Support Payable By Each Parent. If this results in a number less than "0" then enter "0." This line indicates the child support obligation of each parent. The non-custodial parent must pay to the custodial parent the amount set forth on his/her Line 17, unless there are exceptional circumstances.

If the custodial parent lists a child care expense and/or a health and/or dental expense on Lines 15 and/or 16, then the custodial parent must pay the amount indicated in Lines 15 or 16 to the child care and/or health/dental provider, in addition to providing the necessities for the child based upon the child's needs.

Line 18: Check the boxes of which parent will pay child support to which parent. Enter in the amount of child support per child per month and the amount of total child support to be paid per month. Check the boxes of which parent is responsible for the payment of child care and health/dental insurance costs.

\* SIGN AND DATE THE ACKNOWLEDGMENT AT THE BOTTOM OF THE PAGE.

#### **IV. OTHER CHILD SUPPORT CONSIDERATIONS**

##### **A. TIME SHARING/JOINT CUSTODY/EXTENSIVE VISITATION AND SPLIT CUSTODY:**

If a parent establishes extensive visitation or has physical custody significantly beyond 143 days per year or more, see below.

**Joint Physical Custody:** Where parties share physical custody on an equal basis, each will be considered to have the child(ren) for six months during the year. In such cases, prepare the Child Support Guidelines Worksheet to determine the child support to be paid by each parent. (Line 17 of the Child Support Guidelines Worksheet.) To avoid unnecessary transfer of funds, the "payout" of each parent for the year should be determined by multiplying the monthly support obligation by six months. If one parent's yearly total child support obligation is greater than that owed by the other, the excess amount shall be divided by 12 and paid monthly over the course of the year.

#### **USE THE CHILD SUPPORT GUIDELINES WORKSHEET FOR JOINT CUSTODY/EXTENSIVE VISITATION (LINES 1 THROUGH 4 of Attachment B).**

Line 1: Enter the support for each parent from Line 17 of the Child Support Guidelines Worksheet. If the support on either worksheet is less than \$50 per child, then enter \$50 multiplied by the total number of children in your case. For example, if Mother's child support on Line 17 is \$40 for two children, enter \$100 on Line 1(B) of the Child Support Guidelines Worksheet for Joint Custody.

Line 2: (a) Multiply Line 1(A) by 6 months for Father's Yearly Support Obligation.  
(b) Multiply Line 1(B) by 6 months for Mother's Yearly Support Obligation.

Line 3: Calculate the difference between Lines 2(A) and 2(B). Subtract the smaller amount (either Line 2(A) or Line 2(B)) from the larger amount. For example, if Father's support on Line 2(A) is \$3000 and Mother's support on Line 2(B) is \$1200, then subtract \$1200 from \$3000 to obtain the difference of \$1800 ( $\$3000 - \$1200 = \$1800$ ).

Line 4: Divide Line 3(C) by 12 months to obtain the monthly child support to be paid by the parent with the larger child support obligation. Enter the monthly child support amount rounded to the nearest \$10.

2. **Extensive Visitation:** For visitation more than 143 days per year, but not 50/50 joint custody (i.e., 183 days per year), first complete Lines 1 through 4 of Attachment B, then complete Lines 5 through 11 of Attachment B.

Designate which parent is the custodial parent (more than 143 days per year) and which parent is the non-custodial parent by checking the appropriate boxes. Enter the number of visitation days per year.

Line 5: Enter the support obligation as listed on Line 1 of this form for the non-custodial parent only.

Line 6: Enter the child support obligation calculated for joint child support from Line 4(A) or 4(B).

Line 7: If the non-custodial parent would also be the paying parent in a joint physical custody calculation, **subtract** the joint physical custody support (Line 6) from the regular support (Line 5). This will determine the difference between the monthly regular support obligation and the monthly joint custody support obligation.

For example, Mother is the custodial parent and Father is the non-custodial parent having extensive visitation. If Father is paying child support under the normal support calculations and also paying child support under the joint custody calculations, then subtract Father's joint custody child support obligation from his normal support obligation. Line 5 minus Line 6.

If the non-custodial parent paying regular child support in Line 5 is different from the parent paying child support under a joint custody arrangement in Line 6, **add** Lines 5 and 6.

For example, where Mother is the custodial parent and the higher income earner and if Father is to have extensive visitation, Father must pay child support under the normal support calculations, but Mother pays child support under the joint custody calculations, then add Line 5 to line 6 to determine the sum of the normal child support calculation and joint custody support calculation.

**(Note:** In some situations, where the custodial parent has the higher income and therefore a higher child support obligation under a joint custody child support calculation (Line 4 of this worksheet) than the non-custodial parent, the custodial parent may be required to pay child

support to the non-custodial parent with extensive visitation in order to facilitate that visitation.)

- Line 8: Divide Line 7 by 40 days (the difference in the number of days between 143 days extensive visitation and joint custody) to calculate the adjustment rate.
- Line 9: Enter the number of Visitation Days over 143 days. For example, for 163 days visitation per year, enter “20” on Line 9.
- Line 10: Multiply Adjustment Rate (Line 8) by the number of visitation days over 143 (Line 9) to obtain the amount to adjust “normal” support for the extensive visitation credit. Line 8 x Line 9.
- Line 11: Subtract Line 10 from Line 5 “normal” support to adjust or credit normal support for the additional days of extensive visitation. The total on Line 11 is the monthly support to be paid by the non-custodial parent with extensive visitation. Round this number to the nearest \$10.

If these issues arise in connection with a request for modification of child support, the moving parent bears the burden of showing by accurate calendar records the actual number of visitation days for the 12 months immediately preceding the filing of the motion. Either parent may file a motion to modify child support only once in any 12-month period based solely on the number of visitation days.

3. **Split Custody:** If the two parties “split” custody of their child(ren), with Mother having physical custody of one or more of the children and Father having physical custody of the remaining child(ren), a separate guideline worksheet must be prepared regarding the children in each individual household. To avoid unnecessary transfers of funds, the amounts payable by each parent to the other shall be offset with a net amount to be paid by the parent having the greater child support obligation. (For example, if Father is responsible for \$400 child support to Mother and Mother is responsible for \$300 child support to Father, then Father shall pay \$100 per month net child support.)

## **B. EXCEPTIONAL CIRCUMSTANCES**

The Court or Office of Child Support Hearings must order the amount of child support as calculated from the Child Support Guidelines unless there are exceptional circumstances, which warrant deviation from the Child Support Guidelines. Exceptional circumstances may allow a deviation from the child support guidelines calculation of child support. If you believe exceptional circumstances exist in your case, complete the Exceptional Circumstance Form (Attachment C) and attach it to your Child Support Guidelines Worksheet. The party requesting an exceptional circumstances deviation from the Child Support Guidelines has the burden of proving that exceptional circumstances exist and that these circumstances warrant departure from the calculated Child Support Guidelines amount.

The Court or Office of Child Support Hearings shall determine whether alleged exceptional circumstances exist on a case-by-case basis. When the Court or Office of Child Support Hearings concludes that there are exceptional circumstances, they shall make oral findings of fact on the record or prepare written findings of fact regarding the exceptional circumstances. The findings of fact shall include the amount of support that would have been required under the Guidelines.

Examples of exceptional circumstances include (without limitation) the following:

1. The 70% Rule Where the amount of child support as calculated by the Child Support Guidelines Worksheet for the subject child(ren) is greater than 70% of the obligor's net income (as set forth in Attachment A-2);
2. Support of Other Children If the total of (a) the amount of child support for the subject child(ren) as calculated by the Child Support Guidelines Worksheet and (b) the amount of child support the obligor is legally required to pay for his or her other child(ren)<sup>2</sup> is greater than the obligor's net income (as set forth in Attachment A-2), then child support for (each of) the subject child(ren) shall be the higher of the following:
  - The amount obtained by dividing the obligor's net income by the total number of all of the children the obligor has a legal obligation to support, including the subject child(ren); or
  - \$50.00 per child;
3. Extraordinary Needs of Child/Other Parent Where the subject child(ren), or the subject child(ren)'s other parent, have extraordinary needs (e.g., special educational and/or housing needs for a physically or emotionally disabled child);
4. Other Payments for Child/Other Parent Payments made by the obligor to or for the benefit of the subject child(ren), or the subject child(ren)'s other parent, where they are obligated to be made by law, including payment for extraordinary medical needs;
5. Support Exceeding Needs of Child Where the amount of child support as calculated by the Child Support Guidelines Worksheet for the subject child(ren) exceeds the reasonable needs of the child(ren) based on the child(ren)'s appropriate standard of living, which will be determined on a case-by-case basis;
6. Other Exceptional Circumstances:  
The Court and Office of Child Support Hearings has the discretion to find other exceptional circumstances.

In the following situations, it has been determined that no exceptional circumstances exist:

1. Agreement for Lesser Amount While the parties' agreement to an amount of child support higher than the amount calculated according to the Child Support Guidelines may be enforceable, the parties' agreement for the payment of less than the amount of child support as calculated from the Child Support Guidelines is not an exceptional circumstance.
2. Remarriage and New Family The remarriage of a child support obligor to an individual who has a child not of the obligor requiring support is not an exceptional circumstance.
3. Visitation Expenses The need to pay transportation expenses relating to visitation is not an

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<sup>2</sup> For the purposes of these Child Support Guidelines, Obligor's "other children" are Obligor's biological or adopted child(ren) living in the Obligor's household and any child(ren) whom the Obligor is legally obligated to support and is actually supporting. Stepchildren are not considered to be Obligor's "other children" under these Child Support Guidelines.

exceptional circumstance.

4. Heavy Debt Ordinarily, the existence of heavy debts will not constitute an exceptional circumstance.

5. Private Education Expenses The private education expenses of the subject child(ren) are considered as an expense to be paid from the SOLA portion of child support, and they are not an exceptional circumstance justifying greater-than-Guidelines child support, unless such expenses are so extraordinary that SOLA cannot adequately cover them, or if the child has been in private school with the agreement of the parties prior to separation.

**C. FOR INDIVIDUALS EMPLOYED BY OTHERS WITH INCOME OVER \$10,150 PER MONTH**

① NET INCOME FOR GUIDELINES PURPOSES is determined by:

a) Adding the gross monthly income from all sources.

b) Subtracting all three taxes:

(1) FICA RELATED TAX	\$449 plus 1.45% (.0145) times income over \$10,150
(2) STATE OF HAWAI'I TAX	\$955 plus 10% (.10) times income over \$10,150
(3) FEDERAL TAX	for incomes over \$10,150 but not over \$10,675 \$1,158 plus 31% (.31) times income over \$10,150  for incomes over \$10,675 but not over \$23,204 \$2,881 plus 36% (.36) times income over \$10,675  for incomes over \$23,204 \$7,392 plus 39.6% (.396) times income over \$23,204

c) Subtracting \$633 (after tax poverty level income in Hawai'i).

INCOME PER MONTH	\$ _____
FICA	- _____
STATE OF HAWAI'I TAX	- _____
FEDERAL TAX	- _____
AFTER TAX MINIMUM	- \$633
<b>NET INCOME</b>	
<b>FOR GUIDELINES</b>	<b>\$ _____</b>

② SOLA INCOME is Gross Income Per Month Less \$743.

**D. FOR SELF-EMPLOYED INDIVIDUALS WITH INCOME OVER \$10,150 PER MONTH**

- ① NET INCOME FOR GUIDELINES PURPOSES is determined by computing Net Income as provided in section C on page 10 (immediately above).
- ② DEDUCTING an additional ½ self-employment tax (see tax returns).
- ③ DEDUCTING any allowable ordinary and necessary operating expenses.  
(see Instructions page 2, section E)

INCOME PER MONTH	\$ _____
FICA	- _____
STATE OF HAWAI'I TAX	- _____
FEDERAL TAX	- _____
AFTER TAX MINIMUM	- \$633 _____
<b>NET INCOME FOR GUIDELINES</b>	<b>\$ _____</b>
½ SELF-EMPLOYMENT TAX	- _____
ORDINARY & NECESSARY OPERATING	- _____
<b>SELF-EMPLOYED NET INCOME</b>	<b>\$ _____</b>

- ④ SOLA INCOME is Gross Income per month less \$743.

**E. ADULT DEPENDENT CHILDREN**

All stipulations and orders for child support should expressly retain court jurisdiction to modify or extend child support.

Support for an adult child who is a full-time student may continue until the child attains the age of 23. The Family Court in its discretion may order support for post high school education. In determining support for an educationally dependent adult child, the Family Court should take into account (a) the adult child's earnings, (b) the adult child's property, (c) the adult child's needs, as well as (d) both parents' income and resources. In appropriate circumstances, an educationally dependent adult child receiving educational support should be expected to contribute to his or her own self support through (a) part-time employment not harmful to the child's academic progress, or to other appropriate school-related pursuits, (b) grants, scholarships, and fellowships and (c) loans.

Payments may be made directly to the educationally dependent adult child by agreement of the parties or by order of the court.

The Family Court in its discretion may order the parents of an incompetent child to support their child beyond the age of majority, and beyond age 23, without regard to the child's educational status.

## **F. SOCIAL SECURITY**

If Social Security benefits are being paid directly to the subject child(ren) due to the non-custodial parent payor's retirement, Social Security (but not SSI) qualification or disability, the payor shall receive credit for the amount of the Social Security benefits paid subject to the right of the party receiving such benefits on behalf of the child(ren) to challenge the amount of the credit. The payor's child support obligation being credited through the payments of Social Security benefits directly to the child(ren) shall not be made payable through the Child Support Enforcement Agency. If the payor's child support obligation under the Guidelines is greater than the credit for Social Security benefits paid directly to the child(ren), only the difference shall be made payable through the Child Support Enforcement Agency. If the amount of the Social Security benefits exceeds the amount of payor's child support obligations under the Guidelines, the excess shall be deemed a gratuity to the child(ren).

## **G. MATERIAL CHANGE IN CIRCUMSTANCES**

A material change of circumstances can result in a change in the child support amount. Material changes can include income changes of either parent, changes in the custodial arrangements specified in an order issued by the Family Court, or changes in the needs of the child(ren). A change in the Child Support Guidelines may constitute a change in circumstances sufficient to permit review of a child support order. A material change of circumstances will be presumed if child support, as calculated pursuant to the new Guidelines, is either ten percent (10%) greater or less than the child support amount in the existing child support order. In addition, a parent has the right to petition the Family Court or the Child Support Enforcement Agency not more than once every three (3) years for review and possible adjustment of the child support amount without having to show a change in circumstances. This does not preclude one from petitioning the Family Court or the Child Support Enforcement Agency for review and adjustment of the child support more than once in any three (3) year period if the second or subsequent request is supported by proof of a material change of circumstances.